

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 477 of 2015

Rajkumar Tirkey S/o Ramkripal Ram Aged About 23 years Occupation- Service, Shiksha Karmi, R/O Village Pandripani, Post Bhusu, Police Station & Tahsil Sitapur, District Sarguja Civil And Revenue District Sarguja, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through: Station House Officer, Police Station- Sitapur, District- Sarguja, Chhattisgarh

---- Non-applicant

For Applicant/s	:	Shri Vineet Kumar Pandey, Advocate.
For non-applicant / State	:	Shri Vinod Tekam, Panel Lawyer.

Order On Board

30/06/2015

Heard.

The applicant is apprehending his arrest in connection with Crime No.04/15, registered at Police Station – Sitapur, District- Sarguja, CG for alleged commission of offence under Section 376 (2) of IPC.

2. Prosecution case is that the applicant, on false pretext of marriage, committed rape on the prosecutrix.

3. Learned counsel for the applicant submits that he has been falsely implicated. Even according to the prosecutrix, she had an affair with the applicant for the last many years and they were maintaining physical relations to which she never objected to. Even after she became pregnant, instead of making any report, she got pregnancy aborted. He submits that the complaint

has been lodged against the applicant because the marriage has not been materialized and the complainant has come to know that on 17/05/15, the applicant is going to marry.

4. On the other hand, learned counsel for the State opposes the bail application and submits that even if there was an affair between the applicant and the prosecutrix, sexual intercourse was committed on false pretext and it cannot be said to be a case of free consent. Therefore, this is a case of sexual intercourse without consent, amounting to rape.

5. Taking into consideration the submissions made by learned counsel for the parties, particularly the contents of FIR, statement of the prosecutrix, she appears to be a major and according to her own statement, she had a long standing love affair with the applicant ever since 2011 and that there is no specific date on which sexual act is stated, the application is allowed.

6. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the arresting officer on his furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicant shall make himself available for interrogation by the police officer as and when required;

(ii) the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Certified copy as per rules.

Sd/-
Manindra Mohan Shrivastava
JUDGE